

**OPINION
73-134**

April 10, 1973 (OPINION)

Mr. Orville A. Schultz
State's Attorney
Oliver County
Center, ND 58530

Dear Mr. Schultz:

This is in reply to your letter of April 4, 1973, in regard to payment of salary and travel expenses of your County Housing Authority Committee.

You indicate your committee has no funds of their own and desires an opinion as to whether the county can pay their salary and travel expenses pursuant to section 23-11-05 of the North Dakota Century Code.

Section 23-11-05 of the North Dakota Century Code provides in part:

"23-11-05. * * * * A commissioner may receive ten dollars a day for each day necessarily devoted to the work of his office and he shall be entitled to the necessary expenses, including travel expenses, incurred in the discharge of his duties. The per diem compensation provided for in this section shall not exceed three hundred dollars in any one fiscal year."

While the codified part of our "Housing Authorities Law" does mention such things as "rentals" for housing facilities, "bonds" of the housing authority, cooperation with federal agencies, etc., it does not contain a great deal of detailed information as to how the basic finances are provided and utilized. In this respect, we find the "Finding and Declaration of Necessity" in section 2 of chapter 102 of the 1937 Session Laws, the original enactment of this law quite enlightening. Subsection (c) thereof states:

"(c) that the clearance, replanning and reconstruction of the areas in which insanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of state concern;"

In light of this declaration of necessity, determining the propriety of expenditure of public moneys for these purposes, the provisions of the codified portions of the act authorizing creation of this authority and appointment of the commissioners thereof by a county and providing as shown in the quoted portions of said section 23-11-05 that they may receive a specified per diem and expenses we think it is obvious in the situation you describe that such per diem and expenses may be paid by the county. Conceivably in situations where projects have been undertaken to the point where bonds proceeds, rentals, or federal aid moneys are on hand, the function of

such an "authority" may in effect be self-sustaining, however, there is no requirement in the statute that such be the case.

We hope the within and foregoing will be sufficient for your purposes.

Yours very truly,

ALLEN I. OLSON

Attorney General